3799.

SUPREME COURT OF THE UNITED STATES.

No. 193.

THE UNITED STATES, APPELLANTS,

vs.

THE HEIRS OF FRANCISCO DE HARO, DEC'D.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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GIBSON, Print.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this second day of March, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of the heirs of Francisco de Haro for a lot of land at the mission Dolores was presented, and ordered to be filed and docketed with No. 705, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *August* 31, 1853.

In case No. 705, heirs of Francisco de Haro for a lot at the mission Dolores, the deposition of Francisco Sanchez, a witness in behalf of the claimants, taken before Commissioner R. Aug. Thompson, with document marked A. R. T. annexed thereto, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *June 7th,* 1854.

Case No. 705, on motion, was ordered to be placed at the foot of the calender of the first class cases on the trial docket.

SAN FRANCISCO, *Aug. 22d,* 1854.

Case No. 705 was submitted under the rule of March 21st, 1854.

SAN FRANCISCO, *August 29th,* 1854.

In the same case Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim.

(Vide page 11 of this Transcript.)

On motion of the U. S. law agent, the following order was made, to wit:

(Vide page 13 of this Transcript.)

Petition.

To the U. S. Land Commissioners for the ascertaining and settling of Private Land Claims in California.

The petition of the heirs of Francisco de Haro respectfully represents to your hon. board, that heretofore, to wit, on the 30th

day of July, 1843, Francisco de Haro, the father of your petitioner, made and presented his petition in writing to Alvarado, governor of California, soliciting for himself the grant of a lot of land in the mission of Dolores, to which he had previously obtained a provisional grant of José Ramon de Estrada.

That on the 16th of August, 1843, said Francisco obtained a formal grant of said Alvarado to the lot so petitioned for, and as remained in possession thereof up to the time of his decease, and that from that time up to this day your petitioners have been and still are in the quiet and undisputed possession of said land.

That said land is situate in the mission Dolores, and in the block known and laid down on the official map of San Francisco as block No. 37, and forms the northeast corner of Centre and Dolores streets, containing fifty Spanish varas square.

And your petitioners further say, that said grant has properly been recorded in the archives of California, and that the original documents are herewith submitted to the inspection of your honorable board.

They therefore claim to be the lawful owners of said land, and pray that your honorable board will confirm and validate their claim and title thereto.

CLARK, TAYLOR & BECKH,
Att'ys for Claimants.

Filed in office March 2d, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Franc'o Sanchez.

Case No. 705.

OFFICE OF THE COMMISSIONERS OF LAND CLAIMS IN CALIFORNIA.

This day, before Commissioner Rob't Aug. Thompson, came Francisco Sanchez, a witness in behalf of claimants, heirs of Francisco de Haro, case No. 705, and after being duly sworn deposed as follows:

The secretary acted as interpreter.

Present, J. Clark, esq., att'y for claimants, and J. Navarro, esq., for the law agent.

1st question by claimant's attorney. What is your name, age and place of residence?

Answer. My name is Francisco Sanchez; I was born and have always resided in the present county of San Francisco, and my age is forty-eight years.

2d question by same. Look on the paper now shown you marked No. 705, with the letter "A," and the initials R. T., and hereto annexed, purporting to be a petition for and grant of the land claimed in this case, and state what you know of its genuineness.

Answer. I never saw the paper before, but I have no doubt it is genuine. I am acquainted with the signatures of Francisco de Haro and Juan B. Alvarado, having often seen them write, and I recognise their signatures, as they appear on said document, as their genuine signatures.

3d question by same. State what you know of the occupation and improvement of the land claimed in this case by the said Francisco de Haro.

Answer. There were some old houses on the land at the time of the grant which had belonged to the mission. These were repaired by Francisco de Haro, and in 1846 he was living on them. The land has been enclosed since his death by his son-in-law, Charles Brown. De Haro died there in 1848.

Question by Mr. Navarro. Do you know that de Haro repaired the said houses, and whether it was done before or after 1846?

Answer. As I stated before, I believe it was before 1846, because he was living there in 1846 and 1847. The roof and eaves were repaired by de Haro.

And further this deponent sayeth not.

FRANC'O SANCHEZ.

Sworn to and subscribed before me, this 31st of August, 1853.

R. AUG. THOMPSON,
Commissioner.

Filed in office August 31st, 1853.

GEO. FISHER, *Sec'y.*

Petition and Grant.

No hay papel sellado.

Sor. Gobernador de las Californias:

Francisco de Haro, Mejicano por nacimiento y radicado en San Francisco, por orden superior como oficial y servidor al gobierno de la Alta California. Ante V. E. hase presente que siendo establecido en el establecimiento de Dolores en casas de d'ro nombradas de mayordomos en frente de la clase principal y plaza y como las obture por el S'or Prefecto del 1° distrito, D. José Ramon Estrada, solicito de S. E. la legitimedad en propiedad por los gastos que tengo que hacer para recomponeros y havitar cin mi familia, en vertud de mis servicios prestados pues sirbiendo esta gracia solicitud con V. E. que se le aumenter cincuenta varas al este de d'has casas cuadradas P. T. A. V. E. rendidam'te suplica se le atienda en su solicitud gracia que espera jurando no ser de malicia, &c.

FRANCISCO DE HARO.

San Francisco, Julio 30, de 1843.

MONTEREY, *Ag'to* 16, *de* 1843.

Por cuanto el ciudadano Fran'co de Haro, tiene contraidos servicios interesantes á la nacion y al gob'no departam'te y en virtud

day of July, 1843, Francisco de Haro, the father of your petitioner, made and presented his petition in writing to Alvarado, governor of California, soliciting for himself the grant of a lot of land in the mission of Dolores, to which he had previously obtained a provisional grant of José Ramon de Estrada.

That on the 16th of August, 1843, said Francisco obtained a formal grant of said Alvarado to the lot so petitioned for, and as remained in possession thereof up to the time of his decease, and that from that time up to this day your petitioners have been and still are in the quiet and undisputed possession of said land.

That said land is situate in the mission Dolores, and in the block known and laid down on the official map of San Francisco as block No. 37, and forms the northeast corner of Centre and Dolores streets, containing fifty Spanish varas square.

And your petitioners further say, that said grant has properly been recorded in the archives of California, and that the original documents are herewith submitted to the inspection of your honorable board.

They therefore claim to be the lawful owners of said land, and pray that your honorable board will confirm and validate their claim and title thereto.

CLARK, TAYLOR & BECKH,
Att'ys for Claimants.

Filed in office March 2d, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Franc'o Sanchez.

Case No. 705.

OFFICE OF THE COMMISSIONERS OF LAND CLAIMS IN CALIFORNIA.

This day, before Commissioner Rob't Aug. Thompson, came Francisco Sanchez, a witness in behalf of claimants, heirs of Francisco de Haro, case No. 705, and after being duly sworn deposed as follows:

The secretary acted as interpreter.

Present, J. Clark, esq., att'y for claimants, and J. Navarro, esq., for the law agent.

1st question by claimant's attorney. What is your name, age and place of residence?

Answer. My name is Francisco Sanchez; I was born and have always resided in the present county of San Francisco, and my age is forty-eight years.

2d question by same. Look on the paper now shown you marked No. 705, with the letter "A," and the initials R. T., and hereto annexed, purporting to be a petition for and grant of the land claimed in this case, and state what you know of its genuineness.

Answer. I never saw the paper before, but I have no doubt it is genuine. I am acquainted with the signatures of Francisco de Haro and Juan B. Alvarado, having often seen them write, and I recognise their signatures, as they appear on said document, as their genuine signatures.

3d question by same. State what you know of the occupation and improvement of the land claimed in this case by the said Francisco de Haro.

Answer. There were some old houses on the land at the time of the grant which had belonged to the mission. These were repaired by Francisco de Haro, and in 1846 he was living on them. The land has been enclosed since his death by his son-in-law, Charles Brown. De Haro died there in 1848.

Question by Mr. Navarro. Do you know that de Haro repaired the said houses, and whether it was done before or after 1846?

Answer. As I stated before, I believe it was before 1846, because he was living there in 1846 and 1847. The roof and eaves were repaired by de Haro.

And further this deponent sayeth not.

FRANC'O SANCHEZ.

Sworn to and subscribed before me, this 31st of August, 1853.

R. AUG. THOMPSON,
Commissioner.

Filed in office August 31st, 1853.

GEO. FISHER, *Sec'y.*

Petition and Grant.

No hay papel sellado.

Sor. Gobernador de las Californias:

Francisco de Haro, Mejicano por nacimiento y radicado en San Francisco, por orden superior como oficial y servidor al gobierno de la Alta California. Ante V. E. hase presente que siendo establecido en el establecimiento de Dolores en casas de d'ro nombradas de mayordomos en frente de la clase principal y plaza y como las obture por el S'or Prefecto del 1° distrito, D. José Ramon Estrada, solicito de S. E. la legitimedad en propiedad por los gastos que tengo que hacer para recomponeros y havitar cin mi familia, en vertud de mis servicios prestados pues sirbiendo esta gracia solicitud con V. E. que se le aumenter cincuenta varas al este de d'has casas cuadradas P. T. A. V. E. rendidam'te suplica se le atienda en su solicitud gracia que espera jurando no ser de malicia, &c.

FRANCISCO DE HARO.

San Francisco, Julio 30, de 1843.

MONTEREY, *Ag'to* 16, *de* 1843.

Por cuanto el ciudadano Fran'co de Haro, tiene contraidos servicios interesantes á la nacion y al gob'no departam'te y en virtud

de hallarse ya en polecun de las casas pretendidas con previo consentimiento del gobn'o segun lo acredita la consecion del Sr. prefecto del distrito he venido p'r el presente en conformar y rectificar dicha consecion juntam'te con las cincuenta varas al E. de dichas casas como se pretende. Lo tendria entendido asi el juez de S'n Fran'co para los casos que ocurren sobre informes relativos al nuevo pueblo de Dolores.

ALVARADO.

Exmo. Sor.

Filed in office March 2d, 1853.

GEO. FISHER, *Sec'y.*

Translation of Petition and Grant.

(There is no stamped paper.)

Sir Governor of the Californias:

Francisco de Haro, a Mexican by birth, and established in San Francisco by superior order as an officer and servant of the government of Upper California, before your excellency exposes: That being established in the establishment of Dolores, in houses of the same, called "mayordomos," opposite the principal house and plaza, and, as I obtained them from the prefect of the 1st district, Don José Ramon Estrada, I solicit of your excellency the legitimacy in property for the expenses that I have to make to repair them to live therein with my family, in virtue of my services rendered, receiving grace from your excellency by adding fifty varas eastward of the houses; inasmuch, I beg most humbly of your excellency to attend to this petition, grace that he expects, swearing not to act with malice.

(Signed) FRANCISCO DE HARO.

San Francisco, July 30th, 1843.

MONTEREY, *August* 16*th*, 1843.

MOST EXCELLENT SIR: Whereas the citizen Francisco de Haro has rendered interesting services to the nation and to the departmental government, and in virtue of his being already in possession of the houses solicited, by previous consent of the government, as it is shown by the concession of the prefect of the district, I have concluded by these presents, in conformity, and ratifying said concession jointly with the fifty varas to the eastward of said houses, as solicited.

The judge of San Francisco will have it so understood for the cases that may occur upon informations in relation to the new town of Dolores.

(Signed) ALVARADO.

Filed in office March 2d, 1853.

GEO. FISHER, *Sec'y.*

Opinion.

HEIRS OF FRANCISCO DE HARO
vs.
THE UNITED STATES.

For a lot at the Mission Dolores, in San Francisco county, 50 varas.

The land claimed is described in the petition to this commission as situated in the mission Dolores, and in the block known and laid down on the official map of San Francisco as block No. 37, and forming the north ast corner of Centre and Dolores streets, containing fifty Spanish varas square.

A petition made by Francisco de Haro and a marginal decree by Governor Alvarado, dated August 16, 1843, is given in evidence.

These recite an order of the prefect, giving to said de Haro possession of a house at the mission, and the applicant solicits the legitimacy of the ownership thereof and the grant of fifty varas square of land to the eastward of said house.

The governor, by his decree, grants the prayer of the petition. No other description of the premises is given. No concession by the prefect is presented.

There is no proof given to identify or describe either the house or the lands which were intended to be granted, nor is there anything to show that the same are embraced in or constitute a part of block No. 37, which is the only description of the land claimed contained in the petition.

A decree could not be entered confirming the land by the description contained in the petition, because there is no proof identifying the premises with the land granted; nor could a confirmation be made of the lands as described in the decree of concession by the governor, because that description is too vague and indefinte to define and segregate the property granted, and no extraneous proof is given by which the defect is supplied.

The claim must therefore be rejected.

Rejected.

Decree.

HEIRS OF FRANCISCO DE HARO
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioners is not valid, and it is therefore decreed that their application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office August 29th, 1854.

GEO. FISHER, *Sec'y.*

Order.

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary—one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirteen pages, numbered from 1 to 13, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 705 on the docket of the said board, wherein the heirs of Francisco de Haro are the claimants against the United States, for the place known by the name of "A lot of land at the mission of Dolores."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, California, this thirtieth day of December, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

[SEAL.]

GEO. FISHER, *Sec'y.*

Endorsed: Filed January 9th, 1855.
JOHN A. MONROE, *Clerk.*

Notice of Appeal.

Case No. 705.

On appeal from the Board of U. S. Land Commissioners.

HEIRS OF DE HARO, Appellants,
vs.
THE UNITED STATES, Appellee.
} Claim for 50 varas square in the mission Dolores.

SIR: Please to take notice that the claimants in the above case will prosecute the appeal therein.

Yours, respectfully,
CLARKE, TAYLOR & BECKH,
Attorneys for Claimants.

San Francisco, May 9th, 1855.

To the Clerk of the U. S. district court for the northern district of California.

Endorsed: Filed May 9th, 1855.

JOHN A. MONROE, *Clerk.*

Notice of Appeal.

In the United States District Court for the northern district of California.

HEIRS OF FRANCISCO DE HARO vs. THE UNITED STATES. } No. 166.

You will please take notice that in the above case decided by the commissioners to ascertain and settle private land claims in the State of California against the claimants, and a transcript of the proceedings in which was filed in the office of the clerk of the district court of the United States for the northern district of California, on the 9th day of January, A. D. 1855, the appeal in the said U. S. district court will be prosecuted by the claimants.

May 22, 1855.

CAMPBELL, TAYLOR & BECKH,
Attorneys for Appellants.

Endorsed: Filed May 23d, 1855.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Petition on Appeal.

United States District Court.

HEIRS OF F'CO DE HARO, Appellants, vs. THE UNITED STATES, Respondent. } No. 166.—Petition.

To the honorable the District Court of the United States for the northern district of California:

The petition of the above named claimants respectfully shows, that this is an appeal from the decision and decree of the board of commissioners to ascertain and settle the private land claims in the State of California, and is taken for the purpose of a review of the decision of said board; that your petitioners, the appellants, were the claimants before said board; that the transcript was filed in the office of the clerk of this court on the 9th day of January, A. D. 1855; that a notice of appeal was filed by your petitioners in said office on the 23d day of May, A. D. 1855. The lands claimed are in the northern district of California. The claimants presented their petition to the board on the 2d day of March, 1853, praying confirmation of their claim to a lot 50 varas square at the mission Dolores, claiming under a grant made to Francisco de Haro by the governor of California, made Aug. 16, 1843; that

said cause was taken under advisement by the board upon the call of the docket, no one appearing for your petitioners, upon the deposition of Francisco Sanchez and the petition to the governor, and the grant therein made. And afterwards, on the 29th day of August, 1854, the said board delivered their opinion and decision, rejecting the claim. To which petition and proceedings your petitioners refer for a more particular description of the land and their title thereto.

Wherefore your petitioners pray that the said decision and decree of the said board may be reversed and the claim of your petitioners confirmed.

BROOKS.

Due service of a copy of the within is admitted this 12th day of March, 1856.

A. GLASSELL,
Ass't U. S. Dis't Att'y.

Endorsed: Filed March 12th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Answer.

United States District Court.

HEIRS OF FRANCISCO DE HARO, Appellants,
vs.
THE UNITED STATES, Respondents.
} No. 166.—Answer.

The respondents, for answer to the petition filed in this case, answer and say, it is true that the land in the said petition mentioned is within the northern district of California and within the jurisdiction of this court; but they deny that it is true, as prayed in said petition, that the claimants have any title to the land therein mentioned, and the respondent prays that the decision of the board of commissioners, rejecting the said claim, may be affirmed, and that the claimants may be decreed to have no title to said land.

Endorsed: Filed March 12th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of C. Valencia.

United States District Court, northern district of California.

HEIRS OF FRAN'CO DE HARO
vs.
THE UNITED STATES.

SAN FRANCISCO, *April 1st*, 1856.

On this day, before W. H. Chevers, a commissioner of the United

States for the northern district of California, duly authorized to administer oaths, &c., &c., came Candelario Valencia, a witness produced on behalf of the claimants in case No. 166, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 705 on the docket of the said board of commissioners, and was duly sworn and testified as follows—his evidence being interpreted by Loretto Martinez, a sworn interpreter:

Present, B. S. Brooks, esq., counsel for the claimants, and the U. S. dist. attorney, by A. Glassell, esq.

Questions by Claimants' Counsel.

What is your name, age, and place of residence?

Answer. Candelario Valencia; am 48 years of age, and reside in the mission of Dolores, San Francisco county, California.

2d question. Did you know Francisco de Haro?

Answer. I did; I first knew him about thirty years since. He is now dead. He died in 1847 or 1848, at the mission of Dolores, and in the building now occupied by Louis Pruso, which is on the northeast corner of Centre and Dolores streets. The lot on which this house is situated is a fifty vara lot.

3d question. Who are the heirs of Francisco de Haro?

Answer. There are seven now. At the time of his death he left eight children; one died without issue. The names of those living are as follows: Josefa de Haro, wife of James Dennison—she was formerly wife of Guerrero, now dead; Rosalia de Haro, formerly wife of Mr. Andrews, dec'd, now wife of Charles Brown; Natividad, formerly wife of Ignacio Castro, dec'd, and now of Paul Tissot; Prudencia, unmarried; Candelaria, unmarried; Charlotta, wife of Fish Dennison, brother of James; and Alonzo, not yet of age.

4th question. Up to the time of his death, how long had Francisco de Haro lived in the house in question?

Answer. About ten years. This house was formerly part of the establishment of the mission, and was occupied by the mayordomos. It fronts upon the plaza of the mission, and also is opposite the principal house of said mission. Since the death of Francisco de Haro, it has been occupied, and is still, by the tenants of his heirs. Dolores and Centre streets have always existed since the mission was established, but had not their present names—in fact, they had no names. This lot in question had the same position that it now has. A surveyor, without any difficulty, could locate said lot.

Cross-examined by the U. S. Attorney.

What are or were your means of knowledge in this matter?

I have lived at the mission Dolores for the last sixteen years, and have seen all that I have testified to. I have no interest whatever in the event of this suit. CANDELARIO VALENCIA.

Sworn to and subscribed before me, April 1st, 1856.
W. H. CHEVERS,
U. S. Com'r.

Endorsed: Filed April 11th, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Opinion by his Honor Judge M. H. McAllister.

THE UNITED STATES
vs.
THE HEIRS OF FRANCISCO DE HARO.

In July, 1843, it appears from the documentary testimony that Francisco de Haro presented a petition to Governor Alvarado, setting forth that the petitioner had obtained from the prefect of the 1st district, Don José Ramon, houses in the establishment Dolores, called mayordomos, and that, having incurred expenses in repairing them, he solicited the legitimacy in the property, and also an addition of 50 varas eastward of the houses. The governor, in a marginal decree, dated August 16th, 1843, after alluding to the public services of the petitioner, and stating that he was already in possession of the houses by the consent of the government, as was shown by the concession of the prefect granted to the petitioner, and ratified said concession, jointly with the fifty varas, to the eastern of said houses, as solicited.

There is an averment in the petition to the land commissioners, that said grant had been properly recorded in the archives of California. No proof of such record is offered by the transcripts; but the originals were produced, and the genuineness of them established by the testimony of Francisco Sanchez, a witness sworn in behalf of claimants before the board.

The claim was rejected by the latter for uncertainty in the description, and the absence of any proof to identify the houses or the land granted with those claimed in the petition presented to them.

This deficiency in the proofs has been supplied by depositions taken in this court.

By the testimony of Calendario Valencia, it appears that de Haro died in 1847 or 1848, in the building now occupied by Louis Pruso, on the N. E. corner of Centre and Dolores streets. That up to the time of his death he had lived on it ten years. That it was formerly part of the establishment, and was occupied by the mayordomos; and that since de Haro's death it has been occupied by the tenants of his heirs. He also states that the lot on which the house is situated is a 50 vara lot.

Francisco Sanchez, in some respects, corroborates the testimony of Valencia.

He states that there were some old houses on the land claimed, which Francisco de Haro, previously to the year 1846, repaired;

that he was living in them in 1846 and 1847, and that he died there in 1848.

This testimony seems to remove all uncertainty as to the location of the lot granted to de Haro; for he not only seems to have lived and died in the house which his heirs now claim, but the repairs alluded to in his petition, and in the grant, are shown to have been made upon it, and it is still further indentified as having formerly belonged to the establishment, and occupied by the mayordomos.

No other objection to the claim is noticed by the board of commissioners, nor has any been suggested to this court, the case having been submitted without argument or the introduction of any testimony on the part of the United States. A decree of confirmation must therefore be entered for a fifty vara lot, situated in the mission of Dolores, on the northeast corner of what are known as Centre and Dolores streets, on which lot there is a house, which formerly formed a part of the establishment of the mission Dolores, occupied by the mayordomos thereof—said lot fronting on the Plaza opposite to the principal house of said mission, and which said lot was in the occupancy of Francisco de Haro for some years previous to his death, and has been recently in the possession of one Louis Pruso, as tenant of the heirs of said Francisco de Haro.

Decree.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco, on Monday, the twenty-fourth day of August, in the year of our Lord one thousand eight hundred and fifty-seven.

Present, the Honorable M. H. McAllister, circuit judge; the Honorable Ogden Hoffman, district judge.

THE HEIRS OF FRAN'CO DE HARO, Appellants, vs. THE UNITED STATES, Respondents. } No. 166.—Final Decree of Confirmation.

This cause came on to be heard upon the transcript of the proceedings in the board of United States land commissioners for the settlement of private land claims in the State of California, and upon the proofs taken in this court, upon the appeal from the decision of the said board taken therefrom by the claimants, and upon hearing counsel for appellants and respondent, and due deliberation being thereupon had, upon motion of B. S. Brooks, esq., of counsel for the claimants, it is ordered, adjudged and decreed, that the decision and decree of the said board be, and the same hereby is reversed.

And it is further ordered, adjudged and decreed that the claim of the said appellants to the land claimed by them is valid, and that the same be and hereby is confirmed to them.

The land whereof confirmation is made is that certain fifty vara

lot situated in the mission Dolores, on the northeast corner of what are known as Centre and Dolores streets, on which lot there is a house which formerly formed a part of the establishment of the mission Dolores, occupied by the mayordomos thereof, said lot fronting on the Plaza, opposite to the principal house of said mission, and which said lot was in the occupancy of Francisco de Haro for some years previous to his death, and has been recently in the possession of one Louis Pruzzo, as tenant of the claimants, together with and adding 50 varas to the eastward, and immediately adjoining said houses.

M. HALL McALLISTER, *Judge.*

Endorsed: Filed August 24th, 1857.

JOHN A. MONROE, *Clerk.*

Notice of Motion.

In the District Court of the United States for the northern district of California.

HEIRS OF FRANCISCO DE HARO, Appellants,
vs.
THE UNITED STATES, Respondent.
} Notice of motion.

SIR: You will please take notice that, upon the record and upon the evidence filed in this cause, I shall move this honorable court, at the court-room thereof, in the city of San Francisco, on the fourteenth day of September, A. D. 1857, at the opening of the court on that day, or as soon thereafter as counsel can be heard, that the decree entered in this cause be reformed by adding to the description of the property confirmed by said decree, "together with the parcel of land, fifty varas square, to the eastward thereof."

San Francisco, September 10th, 1857.

Yours, &c.,

BROOKS, *Att'y for App't.*

TO COL. P. DELLA TORRE,
U. S. Dist. Att'y.

I admit service of a notice, of which the within is a copy, this September 10th, 1857.

P. DELLA TORRE.

Endorsed: Filed September 10th, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Order setting aside Decree.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Saturday, the fifth day of December, in the year of our Lord one thousand eight hundred and fifty-seven.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
HEIRS OF FRANCISCO DE HARO. } No. 166.

On motion of P. Della Torre, esq., U. S. attorney, it is ordered that the decree heretofore rendered at this term, in the above case, be set aside, and that the cause stand for re-argument at the next term of this court.

Endorsed: Filed December 5th, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Notice of Motion.

United States District Court for the northern district of California.

HEIRS OF FRANCISCO DE HARO
vs.
THE UNITED STATES. } No. 166.

SIR: Please to take notice that on Monday next, at the opening of the court on that day, (January 4th, 1858,) or as soon thereafter as counsel can be heard, I shall move this honorable court that the order made on the last day of the last term in this case, opening the decree before that entered, be set aside and vacated.

Yours, &c.,
BROOKS.

To COL. P. DELLA TORRE, Esq.,
U. S. Dist. Att'y.

I admit service of a notice, of which the within is a copy, December 30th, 1857.

P. DELLA TORRE,
U. S. Attorney.

Endorsed: Filed January 5th, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order reinstating Decree.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Tuesday, the fifth day of January, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

HEIRS OF FRANCISCO DE HARO
vs.
THE UNITED STATES. } No. 166.

Upon reading and filing the affidavit of B. S. Brooks, and upon

inspection of a traced copy of the original grant of title, whereof confirmation was heretofore made, certified in due form from the office of the surveyor general, from which it manifestly appears to the court that the said grant was originally made and dated by Governor Alvarado during his term of office, and that the date which it now bears is an evident alteration against the interests of the claimants, and therefore not to be imputed to them, and upon filing a notice of motion, and due proof of service thereof, upon the district attorney of the United States, and counsel having been heard for both parties, on motion of Mr. Williams, of counsel for the claimants, it is ordered that the order heretofore made in this cause, setting aside and vacating the decree heretofore made confirming the claim, be, and the same is hereby, vacated, set aside, and annulled, and said decree revived and reinstated.

Enter the above order.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed January 5th, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday, the eleventh day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
JOSEFA DE HARO DENNISON, ROSALIE DE HARO Brown, Natividad de Haro Tissot, Prudencia de Haro, Candelaria de Haro, Carlotta de Haro Dennison, and Alonzo de Haro, heirs of Franc'o de Haro, dec'd. } No. 166.—L. C. 705.

In this case, on application of P. Della Torre, esq., U. S. attorney, it is ordered that an appeal in behalf of the United States from the final decision of the court rendered in said cause at the June, 1857, term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings, in the said cause, be sent to the Supreme Court of the United States without delay, and the appellants are ordered to serve the usual citation according to law.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed August 11th, 1858.

W. H. CHEVERS, *Clerk.*

Citation.

United States of America to Josefa de Haro Dennison, Rosalia de Haro Brown, Natividad de Haro Tissot, Prudencia de Haro, Candalaria de Haro, Carlotta de Haro Dennison, and Alonzo de Haro, heirs of Francisco de Haro, dec'd, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden in Washington on the first Monday in December next, pursuant to an order of appeal granted on the eleventh day of August, A. D. 1858, by the district judge of the district court of the United States for the northern district of California, in a certain suit, wherein the United States are plaintiffs and you are defendants, on appeal, to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco, this 11th day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Due service of copy within citation, by U. S. marshal, admitted this 12th day of August, A. D. 1858.

BROOKS, *Att'y for Claimants.*

Endorsed: Filed August 12th, 1858.

W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify that the annexed and foregoing pages, numbered from one to twenty-five, both inclusive, contain a full, true, and correct transcript of the record from the board of U. S. land commissioners, and of the pleadings, deposition, opinion, decree, notices, orders, and citation in said court, filed in this office in the case of The United States, appellants, v. Heirs of Fr'o de Haro, appellees.

In testimony whereof I have hereunto set my hand, and affixed the seal of said court, at San Francisco, this nineteenth [SEAL.] day of August, A. D. 1858, and of our independence the 83d.

W. H. CHEVERS, *Clerk.*

Filed September 21st, 1858.